

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

OLEG OLIYARNIK,

Plaintiff,

vs.

PETER RIVA, et al.,

Defendants.

Case No. 2:06-cv-00213-PMP-GWF

**FINDINGS & RECOMMENDATION**

This matter is before the Court on the status hearing scheduled in Minute Order (#10), filed on November 9, 2006, and held on November 20, 2006. Plaintiff previously advised the Court that Defendant Peter Riva is deceased. The other Defendants named in the Complaint have not been served. Plaintiff stated that he would still like to pursue a claim against the estate of Peter Riva, but is not aware of whether an estate has been opened or where assets of the deceased, if any, are located. The Plaintiff agreed that this case should be dismissed without prejudice to his right to pursue a claim against the Defendant's estate. Accordingly,

**RECOMMENDATION**

**IT IS HEREBY RECOMMENDED** that Plaintiff OLEG OLIYARNIK's claim be dismissed without prejudice, each party to bear their own fees and costs herein.

**NOTICE**

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections

1 within the specified time. *Thomas v. Arn*, 474 U.S 140, 142 (1985). This circuit has also held that (1)  
2 failure to file objections within the specified time and (2) failure to properly address and brief the  
3 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues  
4 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*  
5 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

6 DATED this 21st day of November, 2006.

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9 GEORGE FOLEY, JR.  
U.S. MAGISTRATE JUDGE